

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 1 2023

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

RAYMUNDO ALVAREZ-DIAZ,

Petitioner,

v.

MERRICK B. GARLAND, Attorney  
General,

Respondent.

No. 22-157

Agency No.  
A095-773-708

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 27, 2023\*\*

Before: OWENS, LEE, and BUMATAY, Circuit Judges.

Raymundo Alvarez-Diaz, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’ (“BIA”) order dismissing his appeal from an immigration judge’s (“IJ”) decision denying his application for withholding of removal and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. §1252. We review the agency’s

---

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

factual findings for substantial evidence and questions of law de novo. *Conde Quevedo v. Barr*, 947 F.3d 1238, 1241 (9th Cir. 2020). We deny the petition for review.

In 2011, Alvarez-Diaz sought asylum (later dropped), withholding of removal, and protection under CAT, claiming he faced torture or death should he return to Guatemala. In 2014, the IJ made a finding of adverse credibility against Alvarez-Diaz based on inconsistencies in his evidence and testimony. Alternatively, the IJ denied withholding of removal and denied protection under CAT. In 2016, Alvarez-Diaz's case was remanded by this Court to examine any impact of *Matter of J-S-S-*, 26 I&N Dec. 679, 683 (BIA 2015) on a finding of his mental competency. The IJ found Alvarez-Diaz mentally competent in 2019. Alvarez-Diaz did not directly dispute the IJ's mental competency finding on this appeal, instead incorporating PTSD and depression diagnoses into a broader challenge towards the IJ's adverse credibility finding. Alvarez-Diaz also challenged the denial of withholding of removal and denial of protection under CAT.

1. Substantial evidence supports the adverse credibility finding. "We review adverse credibility findings for substantial evidence, and must uphold them unless the evidence *compels* a contrary result." *Singh v. Holder*, 643 F.3d 1178, 1180 (9th Cir. 2011). Alvarez-Diaz failed to challenge several important inconsistencies relied upon by the IJ and BIA. These inconsistencies include whether Alvarez-Diaz feared the group "FARC" or the group "FAR," whether he

personally witnessed the killings of his stepfather and brother, whether he has indigenous status, and whether he attempted to relocate within Guatemala up until the time he entered the U.S. While Alvarez-Diaz claims these inconsistencies are insignificant or minor, as the BIA noted, these issues were key to his claims. Alvarez-Diaz also argues that other inconsistencies in key dates should be excused based on his lack of education and his diagnoses of PTSD and depression, but the evidence in total does not compel that the BIA's adverse credibility finding was incorrect.

2. Alvarez-Diaz's arguments for withholding of removal and for protection under CAT both rely on the credibility of his testimony. Given that substantial evidence supports the adverse credibility finding, we do not separately examine these arguments.

**PETITION DENIED.**